

At a term of U.S. District
Court, Northern District of
New York on the 9th day of
May, 2005, in Albany, New
York

PRESENT: HON. THOMAS J. MC AVOY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

AMBER LYNN, an infant under the age of
18, by her m/n/g JULIE BRENNAN,
Plaintiff,

-against-

ORDER
03-CV-1333
TJM/RFT

ST. ANNE INSTITUTE, CHARLES GRAHAM,
individually and in his official capacity,
RICHARD RICCIO, individually and in his
official capacity, ELECIA RATTRAY,
individually and in her official capacity,
IVY GIBSON, individually and in her official
capacity, DOUGLAS WILSON, individually and
in his official capacity, CYNTHIA LANDRY,
individually and in her official capacity,
TERRY BOLAND, individually and in her official
capacity, KELLY POTTS, individually and in her
official capacity, "JANE" O'KEEFE, individually
and in her official capacity, MARY MULCHY,
individually and in her official capacity,
THE COUNTY OF GREENE, GREENE COUNTY DIRECTOR
OF FAMILY AND CHILDREN'S SERVICES MARGARET
GOODE, individually and in her official
capacity, CHILD PROTECTION SERVICES
SUPERVISOR SUZANNE PAOLINO, individually and
in her official capacity, "JANE DOE 1
individually and in his/her official
capacity", GREENE COUNTY COMMISSIONER OF
THE DEPARTMENT OF SOCIAL SERVICES CAROL
WALLACE, individually and in her official
capacity, SHARON REGAN, individually and in her
official capacity, JOHN JOHNSON COMMISSIONER
OF THE DEPARTMENT OF SOCIAL SERVICES OF THE
STATE OF NEW YORK, individually and in her
official capacity, JANE DOE 2, individually
and in her official capacity,

Defendants.

Upon reading and filing the Motion for Summary Judgment submitted on behalf of the County of Greene, Kelly Potts, Margaret Goode, Suzanne Paolino, Carol Wallace, Sharon Rean, and Jane Doe 1 seeking an Order declaring that St. Anne's Institute has a duty to defend and indemnify the Greene County defendants in this action, and opposition thereto having been submitted on behalf of St. Anne's Institute; and upon oral argument of the issues on June 9, 2005, with appearances by Thorn Gershon Tymann and Bonanni, LLP (Thomas M. Witz, Esq., of counsel) on behalf of the Greene County Defendants, Wilson, Elser, Moskowitz, Edelman & Dicker, LLP (Theresa Marangas, Esq., of counsel) on behalf of St. Anne Institute, and Friedman, Harfenist & Langer (Peter Biogiorno, Esq., of counsel) on behalf of plaintiffs; and after due deliberation having been had thereon

NOW on Motion of Thorn Gershon Tymann and Bonanni, LLP. (Thomas M. Witz, Esq., of counsel), it is

ORDERED that the motion seeking indemnification of the Greene County Defendants by St. Anne's Institute for any loss suffered if such losses result from the claims of any persons injured by the negligent acts or omission of St. Anne's Institute is hereby granted; and it is further

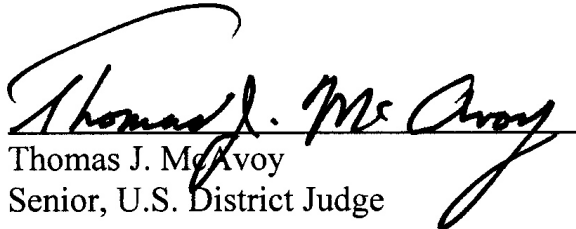
ORDERED that it is premature to know whether any losses are the result of negligent acts or omissions of St. Anne's

Institute; and it is further

ORDERED that the motion seeking summary judgment against St. Anne's Institute on the issue of liability for breach of contract for failure to include the County of Greene and its officers and employees as additional insureds is hereby granted; and it is further

ORDERED that the motion seeking a defense of the County of Greene Defendants by St. Anne's Institute is hereby denied as this is an issue against the insurer.

DATED: May 24, 2005


Thomas J. McAvoy
Senior, U.S. District Judge